

FILED

MC-275

Name

CHRISTIN GARDENHIRE

Address

CALIFORNIA INSTITUTION FOR WOMEN

16756 CHINO-CORONA RD.

2009 NOV 10 AM 11:43

CLERK, U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY

CDC or ID Number

#X23930

530

FEDERAL COURT HOUSE

312 N. SPRING STREET

LOS ANGELES, CA. 90012

(Court)

PETITION FOR WRIT OF HABEAS CORPUS

No.

CV09-08223 R (AJW)

(To be supplied by the Clerk of the Court)

CHRISTIN GARDENHIRE

Petitioner

vs.

CALIFORNIA DEPARTMENT OF
CORRECTIONS & REHABILITATION

Respondent

WARDEN

DAWN DAVISON

INSTRUCTIONS — READ CAREFULLY

- If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.
- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the Superior Court, you need file only the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original and four copies of the petition and, if separately bound, one copy of any supporting documents.
- If you are filing this petition in the California Supreme Court, file the original and ten copies of the petition and, if separately bound, two copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.
- In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

LODGED
CLERK, U.S. DISTRICT COURT

OCT 28 2009

CENTRAL DISTRICT OF CALIFORNIA
BY [Signature] DEPUTY

Approved by the Judicial Council of California for use under Rule 60 of the California Rules of Court [as amended effective January 1, 2005]. Subsequent amendments to Rule 60 may change the number of copies to be furnished to the court and Court of Appeal.

This petition concerns:

☐ A conviction☐ Parole☒ A sentence☐ Credits☐ Jail or prison conditions☐ Prison discipline☐ Other (specify): _____

1. Your name:

CHRISTIN GARDENHIRE

2. Where are you incarcerated?

CALIFORNIA DEPARTMENT OF CORRECTIONS & REHABILITATION

3. Why are you in custody?



Criminal Conviction



Civil Commitment

Answer subdivisions a. through i. to the best of your ability.

a. State reasons for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").

STATE CASE: GRAND THEFT EXCEEDING \$400FEDERAL CASE: SUPERVISING RELEASE VIOLATION

b. Penal or other code sections:

STATE CASE: 01P487(A) FEDERAL CASE: 18 USC 3583

c. Name and location of sentencing or committing court:

STATE CASE: SAN FERNANDO VALLEYSUPERIOR COURT / FEDERAL CASE: FEDERAL COURT HOUSE 312 N. SPRING ST. LA.

d. Case number:

STATE CASE: PAD59431 / FEDERAL CASE: CR0101322 RMT

e. Date convicted or committed:

STATE CASE: 12-06-2006 / FEDERAL CASE: 06-18+L-2008

f. Date sentenced:

STATE CASE: 10-9-2007 / FEDERAL CASE: 10-6-2008

g. Length of sentence:

STATE CASE: 4 YEARS / FEDERAL CASE: 24 MONTHS

h. When do you expect to be released?

2012

i. Were you represented by counsel in the trial court?



Yes.



No.

If yes, state the attorney's name and address:

STATE CASE: TAL K. WOLF 11355 W. OLYMPIC BLVD. LOS ANGELES, CA. 90064FEDERAL CASE: LARRY BARMAN 10100 SANTA MONICA BLVD. LOS ANGELES, CA. 90069

4. What was the LAST plea you entered? (check one)

☐ Not guilty☐ Guilty

Nolo Contendere

☐ Other:

5. If you pleaded not guilty, what kind of trial did you have?

☐ Jury☐ Judge without a jury☐ Submitted on transcript☐ Awaiting trial

6. GROUNDS FOR RELIEF

Ground 1: State briefly the ground on which you base your claim for relief. For example, "the trial court imposed an illegal enhancement." (If you have additional grounds for relief, use a separate page for each ground. State ground 2 on page four. For additional grounds, make copies of page four and number the additional grounds in order.)

THE FEDERAL JUDGE TAKASUHI, WHO SENTENCED ME ON MY FEDERAL SUPERVISOR RELEASE VIOLATION, RECOMMENDED THAT I CAN DO MY STATE SENTENCE IN A FEDERAL FACILITY AND ALSO SAID I CAN DO MY FEDERAL SENTENCE FIRST, SEE ATTACHED DOCKET # 87

a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. If necessary, attach additional pages. CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: who did exactly what to violate your rights at what time (when) or place (where). (If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)

I WAS SENTENCED TO 4 YEARS STATE PRISON ON OCTOBER 9TH 2007, ON OCTOBER 6TH 2008 I WAS SENTENCED TO 24 MONTHS ON A FEDERAL VIOLATION. THE FEDERAL JUDGE TAKASUHI SAID THAT HE CANNOT RUN MY TIME CONCURRENT, BUT HAS RECOMMENDED TO THE BUREAU OF PRISONS, THAT I CAN DO MY STATE PRISON TERM AT A FEDERAL FACILITY.

COURT DOCKET # 87 ATTACHED.

b. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

NONE

7. Ground 2 or Ground _____ (if applicable):

None

a. Supporting facts:

None

b. Supporting cases, rules, or other authority:

None

8. Did you appeal from the conviction, sentence, or commitment? ☐ Yes. ☒ No. If yes, give the following information:

a. Name of court ("Court of Appeal" or "Appellate Dept. of Superior Court"):

b. Result: _____ c. Date of decision: _____

d. Case number or citation of opinion, if known: _____

e. Issues raised: (1) _____

(2) _____

(3) _____

f. Were you represented by counsel on appeal? ☐ Yes. ☒ No. If yes, state the attorney's name and address, if known:

9. Did you seek review in the California Supreme Court? ☒ Yes. ☐ No. If yes, give the following information:

a. Result: DENIED b. Date of decision: SEPTEMBER 30th 2009

c. Case number or citation of opinion, if known: 5172836

d. Issues raised: (1) TO HONOR THE 2ND SENTENCING JUDGE'S RECOMMENDATION

(2) _____

(3) _____

10. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal:

I THOUGHT THE BUREAU OF PRISONS WOULD HONOR THE
FEDERAL JUDGE'S RECOMMENDATION.

11. Administrative Review:

a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Muszalski* (1975) 52 Cal.App.3d 500 [125 Cal.Rptr. 286].) Explain what administrative review you sought or explain why you did not seek such review:

I FILLED OUT A 602 APPEALS TO THE CALIFORNIA
DEPARTMENT OF CORRECTIONS & REHABILITATION, I
RECEIVED MY APPEAL BACK, STATING THIS APPEAL
IS OUT OF CDCR'S JURISDICTION.

SEE ATTACHED DOCUMENTS

b. Did you seek the highest level of administrative review available? ☒ Yes. ☐ No.
Attach documents that show you have exhausted your administrative remedies.

12. Other than direct appeal, have you filed any other petitions, applications, or motions with respect to this conviction, commitment, or issue in any court? ☐ Yes. If yes, continue with number 13. ☒ No. If no, skip to number 15.

13. a. (1) Name of court: _____
- (2) Nature of proceeding (for example, "habeas corpus petition"): _____
- (3) Issues raised: (a) _____
- (b) _____
- (4) Result (Attach order or explain why unavailable): _____
- (5) Date of decision: _____
- b. (1) Name of court: _____
- (2) Nature of proceeding: _____
- (3) Issues raised: (a) _____
- (b) _____
- (4) Result (Attach order or explain why unavailable): _____
- (5) Date of decision: _____

c. For additional prior petitions, applications, or motions, provide the same information on a separate page.

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result:

NONE

15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.)

NONE

16. Are you presently represented by counsel? ☐ Yes. ☒ No. If yes, state the attorney's name and address, if known:

17. Do you have any petition, appeal, or other matter pending in any court? ☐ Yes. ☒ No. If yes, explain:

18. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court:

NONE

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: OCTOBER 22ND, 2009


(SIGNATURE OF PETITIONER)

S172836

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re CHRISTIN GARDENHIRE on Habeas Corpus.

The petition for writ of habeas corpus is denied.

**SUPREME COURT
FILED**

SEP 30 2009

Frederick K. Ohlrich Clerk

Deputy

GEORGE

Chief Justice

State of California

CDC FORM 695

Screening For:

CDC 602 Inmate/Parolee Appeals

CDC 1824 Reasonable Modification or Accommodation Request

RE: Screening at the FIRST Level

April 8, 2009

GARDENHIRE, X23930

LAA 000000000245L

Log Number: CIW-C-

(Note: Log numbers are not assigned to screen out appeals, or informal level appeals)

The enclosed documents are being returned to you for the following reasons:

The action or decision you are appealing was not taken by the California Department of Corrections, and is therefore outside our jurisdiction. We are returning the documents to you so you may pursue the matter through the appropriate agency CCR 3084.3(c)(1).

#3

Appeals Coordinator

California Institution for Women

NOTE: Failure to follow instruction(s) will be viewed as non-cooperation and your appeal will be automatically dismissed pursuant to CCR 3084.4(d). This screening decision may not be appealed. If you believe this screen out is in error, please return this form to the Appeals Coordinator with an explanation of why you believe it to be in error, and supporting documents. You have only 15 days to comply with the above directives.

PERMANENT APPEAL ATTACHMENT – DO NOT REMOVE
--

INMATE/PAROLEE APPEAL FORM

CDC 602 (12/97)

Location: Institution/Parole Region

Log No.

Category

1. _____

1. _____

2. _____

2. _____

You may appeal any policy, action or decision which has a significant adverse effect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
CHRISTEN GARDENHIRE	X23930	LATHAM A A.M. PORTER	LA 245 LOW

A. Describe Problem: ON JUNE 18TH 2008, WENT OUT TO COURT FOR A FEDERAL VIOLATION. SENTENCED ON OCTOBER 6TH 2008. THE FEDERAL JUDGE WHO SENTENCED ME RECOMMENDED TO THE BUREAU OF PRISON THAT I CAN DO MY STATING AT A FEDERAL FACILITY.

ATTACHED IS COURT DOCKETS #87

If you need more space, attach one additional sheet.

B. Action Requested: TAKES IN CONSIDERATION OF JUDGE'S RECOMMENDATION IF POSSIBLE I WOULD LIKE TO DO MY TIME IN FEDERAL PRISON

Inmate/Parolee Signature: _____

Date Submitted: 3-12-2009

C. INFORMAL LEVEL (Date Received: _____)

Staff Response: _____

Staff Signature: _____

Date Returned to Inmate: _____

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

BOARD OF PRISON TERMS AND FOR PAROLEES. I AM ASKING THE BUREAU OF PRISONS TO HONOR THE JUDGE'S RECOMMENDATION. I AM ASKING THE BUREAU OF PRISONS TO RELEASE ME TO THE U.S. MARSHALLS AND HONOR THE JUDGE'S SUBMITMENT (SEE ATTACH)

Signature: _____

Date Submitted: 3-26-2009

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number: _____

S/O 4-8-09

		(sm) (Entered: 07/22/2008)
07/17/2008	80	WAIVER of Preliminary Hearing Probation/Supervised Release by Defendant Christin Macaya Gardenhire (sm) (Entered: 07/22/2008)
07/17/2008	81	MINUTES OF INITIAL APPEARANCE Re: REVOCATION OF SUPERVISED RELEASE held before Magistrate Judge Rosalyn M. Chapman as to Defendant Christin Macaya Gardenhire. Defendant arraigned and advised of the charges. Attorney: Larry Bakman, Appointed as counsel of record. Special Appearance made by Attorney Michael Meza. Defendant permanently detained. Government counsel is to contact the clerk for District Judge Takasugi for the setting of further proceedings. Defendant remanded to the custody of the USM. Court Smart: 7/17/08. (sm) (Entered: 07/22/2008)
07/17/2008	83	FINANCIAL AFFIDAVIT filed as to Defendant Christin Macaya Gardenhire. (sj,) (Entered: 07/24/2008)
07/23/2008	82	NOTICE OF APPEARANCE OR REASSIGNMENT of AUSA Anthony J Lewis on behalf of Plaintiff USA. Filed by Plaintiff USA. (Lewis, Anthony) (Entered: 07/23/2008)
07/25/2008	84	REQUEST FOR CALENDAR DATE filed as to Defendant Christin Macaya Gardenhire Preliminary Revocation Hearing set for 8/18/2008 09:30 AM before Judge Robert M. Takasugi. (lom) (Entered: 07/28/2008)
08/18/2008	85	MINUTES OF Status Conference re Preliminary Revocation hearing held before Judge Robert M. Takasugi as to Defendant Christin Macaya Gardenhire. Court ORDERS the Preliminary Revocation Hearing Re: Supervised Release for defendant Christin Macaya Gardenhire is continued to Monday, October 6, 2008 at 9:30 a.m. Court Reporter: Walter Ledge. (lom) (Entered: 08/22/2008)
10/06/2008	86	MINUTES OF Final Hearing re Revocation of Supervised Release held before Judge Robert M. Takasugi as to Defendant Christin Macaya Gardenhire. The defendant is arraigned and admits to allegation number one of the Petition on Probation and Supervised Release filed 11/19/07. The Court accepts defendant's admission and finds her in violation of her supervised release. The defendant's supervised release is ORDERED revoked, vacated and set aside, and defendant be committed to the custody of the Bureau of Prisons for a term of 24 months, to run consecutive to her state sentence. Court Reporter: Donna FitzSimons Rust. (lom) (Entered: 10/22/2008)
10/20/2008	87	JUDGMENT AND COMMITMENT ORDER UPON REVOCATION OF SUPERVISED RELEASE 86 by Judge Robert M. Takasugi as to Christin Macaya Gardenhire. IT IS HEREBY ORDERED that the supervised release be revoked, vacated and set aside, and that defendant be committed to the custody of the Bureau of Prisons for a term of 24 months, to run consecutive to her state sentence. Upon release from confinement, no further term of supervision is to follow. The Court RECOMMENDS to the Bureau of Prisons defendant does her state custody time in a federal facility. Signed by Judge Robert M. Takasugi. (lom) (Entered: 10/22/2008)

3-26-2009

My First Reply & Response, WAS NOT SIGNED
By A STAFF MEMBER, ALSO THERE IS NO
CDC APPEAL NUMBER LISTED IN TAG BOX.

I AM Hoping My Second Response will Have
A CDC APPEAL NUMBER, I NEED TO ADD THIS
PAPERWORK TO A Higher Court.



TERRY NAFISI

District Court Executive
and Clerk of Court

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

WESTERN DIVISION
312 North Spring Street, Room G-8 Los
Angeles, CA 90012
Tel: (213) 894-3535

SOUTHERN DIVISION

411 West Fourth Street, Suite 1053
Santa Ana, CA 92701-4516
(714) 338-4570

EASTERN DIVISION

3470 Twelfth Street, Room 134
Riverside, CA 92501
(951) 328-4450

Tuesday, November 10, 2009

CHRISTIN GARDENHIRE
CDC# X-23930
16756 CHINO-CORONA RD
CORONA, CA 92880-9508

Dear Sir/Madam:

Your petition has been filed and assigned civil case number CV09- 8223 R (AJW)

Upon the submission of your petition, it was noted that the following discrepancies exist:

- ☒ 1. You did not pay the appropriate filing fee of \$5.00. Submit a cashier's check, certified bank check, business or corporate check, government issued check, or money order drawn on a major American bank or the United States Postal Service payable to 'Clerk U.S. District Court'. If you are unable to pay the entire filing fee at this time, you must sign and complete this court's Prisoner's Declaration In Support of Request to Proceed In Forma Pauperis in its entirety. The Clerk's Office will also accept credit cards (Mastercard, Visa, Discover, American Express) for filing fees and miscellaneous fees. Credit card payments may be made at all payment windows where receipts are issued.
2. The Declaration in Support of Request to Proceed in Forma Pauperis is insufficient because:
- ☐ (a) You did not sign your Declaration in Support of Request to Proceed in Forma Pauperis.
 - ☐ (b) Your Declaration in Support of Request to Proceed in Forma Pauperis was not completed in its entirety.
 - ☐ (c) You did not submit a Certificate of Prisoner's Funds completed and signed by an authorized officer at the prison.
 - ☐ (d) You did not use the correct form. You must submit this court's current Declaration in Support of Request to Proceed in Forma Pauperis.
 - ☐ (e) Other: _____

Enclosed you will find this court's current Prisoner's Declaration in Support of Request to Proceed in Forma Pauperis, which includes a Certificate of Funds in Prisoner's Account Form.

Sincerely,

Clerk, U.S. District Court

AGRAGERA

By: _____

Deputy Clerk



TERRY NAFISI

District Court Executive
and Clerk of Court

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**
312 North Spring Street, Room G-8 Los
Angeles, CA 90012
Tel: (213) 894-7984

SOUTHERN DIVISION
411 West Fourth Street, Suite 1053
Santa Ana, CA 92701-4516
(714) 338-4570

EASTERN DIVISION
3470 Twelfth Street, Room 134
Riverside, CA 92501
(951) 328-4450

Tuesday, November 10, 2009

CHRISTIN GARDENHIRE
CDC# X-23930
16756 CHINO-CORONA RD
CORONA, CA 92880-9508

Dear Sir/Madam:

A ☒ Petition for Writ of Habeas Corpus was filed today on your behalf and assigned civil case number CV09- 8223 R (AJW)

A ☐ Motion pursuant to Title 28, United States Code, Section 2255, was filed today in criminal case number _____ and also assigned the civil case number _____

A ☐ Motion for Extension of Time to File Habeas Corpus Petition was filed today on your behalf and assigned civil case number _____

Please refer to these case numbers in all future communications.

Please Address all correspondence to the attention of the Courtroom Deputy for:

☐ District Court Judge _____
☒ Magistrate Judge Andrew J. Wistrich

at the following address:

☒ U.S. District Court
312 N. Spring Street
Civil Section, Room G-8
Los Angeles, CA 90012

☐ Ronald Reagan Federal
Building and U.S. Courthouse
411 West Fourth St., Suite 1053
Santa Ana, CA 92701-4516

☐ U.S. District Court
3470 Twelfth Street
Room 134
Riverside, CA 92501

The Court must be notified within fifteen (15) days of any address change. If mail directed to your address of record is returned undelivered by the Post Office, and if the Court and opposing counsel are not notified in writing within fifteen (15) days thereafter of your current address, the Court may dismiss the case with or without prejudice for want of prosecution.

Very truly yours,
Clerk, U.S. District Court

By: AGRAGERA
Deputy Clerk